

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 2056 OF 2006

Hindustan Lever Employees Union Petitioner

Versus

M/s BON Limited & Ors. Respondents

Mr. K.K. Singhavi with Ms. Jane Cox with Sanjay Singhavi for Petitioner.

Mr. P.K. Rele with Mr. Piyush Shah for respondent no. 2.

Mr. Mukul Rohatgi, senior Advocate with Mr. C.U. Singh, senior Advocate with Ms. Ruby Ahuja with R.M. Shah and Ms. R.N. Patankar i/by Sanjay Udeshi & Co. for respondent no. 1.

Mr. Mamta Sadh, A.G.P. for respondent nos. 3 and 4.

CORAM : DR. D.Y. CHANDRACHUD, J.

DATE : 22ND AUGUST, 2006

P.C.

1) The Commissioner of Labour passed an order on 26th July 2006 by which an application filed by the first Respondent on 21st March 2006 under Section 25-0(5) of the Industrial Disputes Act, 1947 was allowed and permission to close the industrial establishment was granted subject to conditions. In prayer clause (b) of the Petition filed by the Union, a direction has been sought to the State Government and to the Commissioner of Labour to make a reference to adjudication. Since the Petitioner seeks recourse to

the remedy by way of a reference under Section 10 of the Industrial Disputes Act, 1947 read with Section 25-0(5), it is not necessary to entertain the present petition on merits. The third and fourth respondents to this proceeding are directed to make a reference in terms of Section 10 read with Section 25-0(5) of the Industrial Disputes Act, 1947 for adjudication before the Tribunal within two weeks. Upon a reference being made, the Industrial Tribunal shall endeavour an expeditious disposal thereof within six months of the date of reference. The first respondent shall not without the permission of the Industrial Tribunal alienate the Plant and Machinery. In the event that an application for permission to do so is made before the Tribunal, the Tribunal will pass orders thereon expeditiously, preferably within a period of two weeks. All rights and contentions of the parties to the reference are kept open and, on request of learned counsel appearing on behalf of the first Respondent, it is clarified that such objections which the first respondent has to the maintainability of the reference may be taken up in defence, before the Tribunal. In the event that it is finally held that the reference was not maintainable, it is clarified by consent, that it would be open to the Petitioner to institute proceedings under Article 226 for challenging the closure permission. The Petition is accordingly disposed of, since no other submission is pressed on either side.

(DR. D.Y. CHANDRACHUD, J.)